

**§ 105-113.37. Payment of tax.**

(a) Monthly Report. – Except for tax on a designated sale under subsection (b), the taxes levied by this Article are payable when a report is required to be filed. A report is due on a monthly basis. A monthly report covers sales and other activities occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

(b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco product to a person who has notified the wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under G.S. 105-113.35(a2)(1) or G.S. 105-113.35(a2)(2) may, when filing a monthly report under subsection (a), designate the quantity of tobacco products sold to the person for resale. A wholesale dealer shall report a designated sale on a form provided by the Secretary.

A wholesale dealer is not required to pay tax on a designated sale when filing a monthly report. The wholesale dealer shall pay the tax due on all other sales in accordance with this section. A wholesale dealer or a customer of a wholesale dealer may not delay payment of the tax due on a tobacco product by failing to pay tax on a sale that is not a designated sale or by overstating the quantity of tobacco products that will be resold in a transaction exempt under G.S. 105-113.35(a2)(1) or G.S. 105-113.35(a2)(2).

A person who does not sell a tobacco product in a transaction exempt under G.S. 105-113.35(a2)(1) or G.S. 105-113.35(a2)(2) after a wholesale dealer has failed to pay the tax due on the sale of the item to the person in reliance on the person's written notification of intent is liable for the tax and any penalties and interest due on the designated sale. If the Secretary determines that a tobacco product reported as a designated sale is not sold as reported, the Secretary shall assess the person who notified the wholesale dealer of an intention to resell the item in an exempt transaction for the tax due on the sale and any applicable penalties and interest. A wholesale dealer who does not pay tax on a tobacco product in reliance on a person's written notification of intent to resell the item in an exempt transaction is not liable for any tax assessed on the item.

(c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 955, s. 12.

(d) Shipping Report. – Any person who transports other tobacco products upon the public highways, roads, or streets of this State must, upon notice from the Secretary, file a report in a form prescribed by and containing the information required by the Secretary. (1969, c. 1075, s. 2; 1973, c. 476, s. 193; 1991, c. 689, s. 271; 1991 (Reg. Sess., 1992), c. 955, s. 12; 2009-559, s. 3; 2014-3, s. 15.1(c).)